MEMORIAL

OF

ELIZABETH CADY STANTON, ISABELLA BEECHER
HOOKER, ELIZABETH L. BLADEN, OLYMPIA
BROWN, SUSAN B. ANTHONY, AND
JOSEPHINE L. GRIFFING,

TO THE

CONGRESS OF THE UNITED STATES,

AND THE

ARGUMENTS THEREON

BEFORE

THE JUDICIARY COMMITTEE OF THE U. S. SENATE,

BY

ISABELLA BEECHER HOOKER, ELIZABETH CADY
STANTON, AND SUSAN B. ANTHONY.

Washington, January 12, 1872.

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1872.

MEMORIAL.

*To the Honorable Senate and House of Representatives of the
United States in Congress assembled:*

The undersigned, citizens of the United States, believing that under the present Federal Constitution all women who are citizens of the United States have the right to vote, pray your honorable body to enact a law during the present session that shall assist and protect them in the exercise of that right.

And they pray further that they may be permitted, in person, and in behalf of the thousands of other women who are petitioning Congress to the same effect, to be heard upon this memorial before the Senate and House at an early day in the present session. We ask your honorable body to bear in mind that while men are represented on the floor of Congress, and so may be said to be heard there, women who are allowed no vote, and therefore no representation, cannot truly be heard except as Congress shall open its doors to us in person.

ELIZABETH CADY STANTON.

ISABELLA BEECHER HOOKER.

ELIZABETH L. BLADEN.

OLYMPIA BROWN.

SUSAN B. ANTHONY.

JOSEPHINE L. GRIFFING.

HARTFORD, CONN., *December 12, 1871.*

SENATE OF THE UNITED STATES,
COMMITTEE ON THE JUDICIARY,
Washington, January 10, 1872.

MADAM: The Committee on the Judiciary, to whom was referred the memorial of yourself and others, asking to be heard before the Senate in behalf of the constitutional

right of women to vote, and, modified by your letter of this morning, so as to ask that the committee hold a public meeting in the Senate Chamber for that purpose, have concluded that it would not be consistent with the usage and rules of the Senate to admit memorialists to appear and advocate their claims before the Senate, nor for the committee to ask the use of the Senate Chamber for public discussion before them.

The committee would, however, be happy to receive any communication you and the other memorialists may think proper to make, or, if the memorialists prefer to present their views in person, the committee will hear them in its committee-room at 11 o'clock a. m., next Friday morning.

Very respectfully,

LYMAN TRUMBULL,

Chairman of the Committee on the Judiciary.

Mrs. ISABELLA BEECHER HOOKER.

ARGUMENT OF MRS. HOOKER.

Gentlemen of the Judiciary Committee:

In accordance with your courteous invitation of the 10th, I have the honor to present to you an argument upon this question:

Are women entitled to vote under the United States Constitution, as amended?

It is not important to inquire what was the status of women before the adoption of the fourteenth amendment. By that amendment they are clearly made citizens. No one denies this. The first section of the amendment is as follows:

“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States.”

The whole question is, what is the meaning of the term “*citizen*” as here used. The term is familiar to law and politics, and the authorities are very numerous and uncontradicted which make citizenship include the right to vote. These authorities consist of lexicographers, English and American, and legal and political writers.

It is said, however, that to give the term a meaning by which women become voters under it is contrary to the actual intent of Congress and the State Legislatures in passing the amendment, as, unquestionably, the legislators who voted for it had personally, (with, perhaps, a few exceptions,) no thought of enfranchising women.

To this it is replied: 1. That the question is not whether they thought of enfranchising *women*, but whether they used the term as a term of *enfranchisement at all*; for if it would have enfranchised black men, it would have equally enfranchised women, and unquestionably the pre-

dominant idea in these legislators was a political benefit, not very precisely measured, to black men. 2. An inquiry as to actual intent in such a case is never admissible. A rule that allowed it would make every law uncertain. An enactment can be construed only by the language in fact used, and where that language is doubtful, by other parts of the same enactment, and by a consideration of the public evil which the law was intended to remedy. The evil to be remedied in this case was the political disadvantage under which black men, made free by the thirteenth amendment, still labored. The object was to give them a positive political benefit. The terms used are such that, necessarily and confessedly, whatever benefit accrues to black men under it accrues equally to women.

It is said, in the next place, that the term "citizen" has acquired a meaning in American usage, legal and political, that does not carry with it the idea of suffrage; and the report of the majority of the Judiciary Committee on the Woodhull memorial places its adverse construction of this amendment entirely on the ground of an American use of the term in its restricted sense. Such a use of the term undoubtedly exists. Webster recognizes it, and so do some of our political writers. But this meaning is a secondary and lower one, and has not attained such dignity of use as to encroach at all upon the well-established general meaning, and would not be presumed in a law, much less in a constitution. The American authorities are strongly in favor of the larger meaning.

The term is used in the second section of the original Constitution, article four, which provides that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States." In *Corfield vs. Coryell*, 4 Wash. C. C. R., 380, the court say: "The inquiry is what are the privileges and immunities of citizens in the several States? They may be all comprehended under the following general heads: (Here follows a statement of numerous rights, civil and political, closing as follows:) "To which may be added the *elective franchise* as regulated and established by the laws or constitution of the State in which it is to be exercised." And in the *Dred Scott* case, 19 Howard, 476, Mr. Justice Daniel says:

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"There is not, it is believed, to be found in the theories of writers on government, or in any actual experiment heretofore tried, an exposition of the term "citizen" which has not been understood as conferring the actual possession and enjoyment, or the perfect right of acquisition and enjoyment, of an entire equality of privileges, civil and political." And the supreme court of Kentucky, 1 Little R., 333, says: "No one can, in the correct sense of the term, be a citizen of a State who is not entitled, upon the terms prescribed by the institutions of the State, to all the rights and privileges conferred by those institutions upon the highest class of society."

These are American authorities, and would seem to settle the question that the term has not acquired a distinctive American meaning variant from the well-established general meaning.

It is said, in the next place, and finally, that the second section of the fourteenth amendment shows clearly that the term "citizen" could not have been used in the sense of full citizenship. This objection is the most serious one that the argument encounters. That section, so far as relates to this subject, is as follows: "When the right to vote is denied to any of the male inhabitants of such State being twenty-one years of age and citizens of the United States, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such State."

The consideration of this section is perfectly legitimate in the inquiry as to the meaning of the first section. It is said, with great force, that here is an implied admission that the States retained the power to exclude black men from the right to vote, and it will be asked why, if that right is absolutely conferred by the first section, and is one of the privileges and immunities of citizens which no State may abridge, the amendment does not boldly forbid any such State legislation, instead of merely imposing certain limitations upon the State that should assume to exercise such right of exclusion.

Two answers have been made by public writers on the subject which are merely specious. One is, that if the

second section be construed as admitting the right of a State to exclude certain classes of *men* from the franchise, yet it could not operate as an admission of the right to exclude *women*. The fallacy here is, that if the citizenship conferred by the first section does not secure against all legislation the right of suffrage to men, it does not secure it to women; the question being merely as to the meaning of the term "citizen," as used, and not as to its application to either sex, as such. The other answer that has been made is, that this second section is repealed by the fifteenth amendment, which forbids the denial of suffrage in the cases where this section seems to allow it; and it is asked, with apparent confidence, whether a law that is repealed can have any further operation whatever. The fallacy here is, that the operation of this second section, so far as it relates to the present question, is wholly in throwing light upon the meaning of the term "citizen," as used in the first section, and this operation is just as perfect after its repeal as before; precisely as a part of a will that has been revoked by a codicil, may yet be read with the rest of the will if it will throw light upon the meaning of the whole.

It is believed, however, that a valid answer can be made to the objection which is founded upon the second section, and that the view here presented will be ultimately sustained by the legal opinion of the country.

1. It is not a necessary inference that the right to exclude from suffrage is admitted by the second section, for this section will bear a construction that is consistent with the enlarged construction which we give to the first section; and it is a well-settled principle that a construction that favors the extension of liberty is itself to be favored, and one which restricts liberty is not to be adopted, except under a necessity. This second section provides for a penalty, in the reduction of its basis of representation, in every case where a State should deny to any class of citizens the right of suffrage. Now, this is not necessarily a concession of the right, but may be regarded as a punishment of the attempt to exercise the so-called right. The matter was practically so much within the power of the States, (and the States in view were the disorganized

Southern States,) that it would be far easier for Congress to enforce the penalty for denying the right of suffrage than for the President to protect that right. It may be regarded as a case, well known to the law, of cumulative remedies. It is precisely as if, in addition to the express prohibition by the Constitution of the making of war by any State, there had been a provision that if any State should make war upon a foreign State, such State should pay the entire expense in which the General Government should become involved by the war. This clearly would be only a penalty and not a concession of the right, the object being to increase and not to diminish the security of the General Government against any attempt of a State to do the act prohibited.

2. The first section of the fourteenth amendment is entirely senseless and idle, except upon the construction which we claim. The term "citizen" means either "voter" or merely "member of the nation," as distinguished from an alien. Judge Cartter, in his late opinion in the case of *Spencer vs. The Board of Registration*, in the supreme court of the District of Columbia, sees this necessity, and that there is no intermediate status, and holds that the term means merely a person clothed with the civil rights of an inhabitant, as distinguished from an alien. Let it be borne in mind, then, that those who deny the construction which we claim, must make the word citizen mean merely "not an alien." Let it also be borne in mind that by the thirteenth amendment, which abolished slavery, every inhabitant of the land became a free inhabitant, so that nothing is now added to the force of the term "inhabitant" by prefixing to it the term "free." It follows, therefore, that the fourteenth amendment, under the adverse construction claimed, means only that the persons referred to in it are *inhabitants of the land*. Let us see, then, how it will read: "All persons born or naturalized in the United States are inhabitants of the United States and of the State wherein they reside." This is sheer nonsense. In the construction of an ordinary law, passed by a legislature in the crowded moments of its last hour, every court would say that it must, if possible, give the law a construction that will make it have a sensible meaning

and effect, and that of two constructions, one of which gives it sense and purpose and the other none, the former is, without a question, to be preferred. How much more should such a rule be applied to an amendment of a national Constitution, deliberately adopted, first by Congress and then by three-quarters of the legislatures of the States?

3. It is a universal rule, in the construction of statutes, that the construction of an enabling or enlarging statute must be liberal and in the direction of enlargement. This rule is applicable with much greater force to the construction of this amendment, because, in the first place, it is dealing with the most fundamental of all political rights, that of *free citizenship in a democracy*, and is besides an amendment of a Constitution which *is itself the charter of freedom*, and the amendment is made for the very purpose of giving *larger freedom* than that free Constitution originally gave. This rule alone is enough to settle the question of the construction of this amendment, especially as the question is between a construction that shall make it an enlargement of liberty and a construction that shall make it confer nothing that was not before possessed.

The whole question thus far has been considered with reference to the fourteenth amendment alone. The fifteenth amendment, though, as we think, conferring no new rights, yet should be briefly noticed. That amendment is as follows: "The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any State, on account of race, color, or previous condition of servitude." Here it will be seen that the language, in its natural meaning, implies a pre-existing *right to vote*. It is not pertinent to the creation of a new right, but only to the protection of a right already existing. It is like the case occurring in some of the State constitutions, where it is provided that the right of trial by jury shall not be denied or impaired, in which case it has been held not to confer a new right, but merely to protect, in its then existing form, a right that was enjoyed when the constitution was adopted. This construction of the fifteenth amendment, however, though

the natural and obvious one, is not a necessary one, since, if there had been no fourteenth amendment the fifteenth would undoubtedly be held to create a new right of suffrage. The argument, from the language used, though not without very positive weight, cannot be regarded as decisive of the question, and the claim that women are entitled to vote must rest essentially upon the construction of the fourteenth amendment.

There is, however, an adverse claim that is made under the fifteenth amendment, which ought to be briefly considered. That claim is, that even if the fourteenth amendment gives the right to vote, yet the fifteenth, in prohibiting the denial of the right to vote on account of race, color, or previous condition of servitude, impliedly confers the right to prohibit it on all other grounds. Now, if it has this effect, it does so merely by impliedly repealing that clause of the fourteenth amendment which provides that the rights of citizens shall not be abridged. But it is a well-established rule of law that a repeal by implication is never favored, and will not be sustained unless the implication is a clear and necessary one. Much more would not such a repeal be sustained where the clause claimed to be repealed was a part of a constitution, and was intended as a security for human rights and liberty. The rule that would favor a construction toward liberty of the fourteenth amendment, would equally forbid a construction toward curtailment of liberty of the fifteenth.

But it will be said that the fifteenth amendment becomes without purpose and effect, and really as senseless as we claim the fourteenth amendment to be under the construction which we oppose, if it is to be regarded as operating only in the way claimed, and not as conferring rights not previously existing. This is a point of some force, and which can be replied to only by the fact that there was an impression upon the minds of the legislators and of the people, that the fourteenth amendment did not confer the right of suffrage. That impression weighs nothing in now determining the meaning of the fourteenth amendment; but it furnishes the explanation that seems to be needed, of the passage of the fifteenth

amendment. It was, in our view, wholly unnecessary, but was generally thought to be necessary. The difference in the two cases is, that the fifteenth amendment was passed under a supposed necessity, and with therefore a complete object; while the fourteenth amendment, under the construction which our opponents give to it, not only conferred nothing, *but was believed at the time to confer nothing*, and had therefore no purpose whatever. Our view, that the fifteenth amendment was unnecessary was held by some leading statesmen at the time. Mr. Sumner, in the Senate, declared it to be so before its passage, and proposed instead of it a mere law of Congress recognizing the right of suffrage and regulating its exercise.

It is, at any rate, very clear that the construction of the fifteenth amendment which makes it impliedly allow the denial of suffrage on all other grounds than the three stated cannot be sustained. Such rights as those with which it deals will never be allowed, in a free constitution like ours, to be curtailed or restricted by mere implication. If that construction is adopted, and a State may deny the right to vote on all other grounds but race and color, and previous servitude, then of course a State may deny the right to all naturalized foreigners, although they have already acquired and enjoyed the right, and may also deny the right to vote to persons of a particular height, or color of hair, or profession. Indeed, to reduce the case to an absurdity, suppose the women are allowed to vote in Massachusetts, and being a great majority over the men, turn around and exclude the men. This would be precisely the ground on which women are now excluded—that of sex—and yet can any one doubt that the constitutional right to vote, of men, would be sustained?

It is worth noticing that the act of Congress of May 31, 1870, to carry into effect the provisions of the fourteenth and fifteenth amendments, is entitled "An act to enforce the right of citizens of the United States to vote in the several States of this Union."

Our conclusion, stated in a few words, is this: All women are citizens. Every citizen, in the language of Judge Daniel, in the Dred Scott case, has "the actual possession and enjoyment, or the perfect right of ac-

quisition and enjoyment, of an entire equality of privileges, civil and political." The right to prescribe qualifications rests with the States, in the absence of any law of Congress prescribing them. These qualifications involve time of residence, age, and other matters that are entirely within the reach of the citizen by acquisition or lapse of time. Mr. Sumner has demonstrated, in a manner that cannot be answered, that the qualifications thus left for the States to prescribe must be those under which the citizen can become a voter, and cannot be such as would permanently exclude him from the right of suffrage.

It has been said that it is not fair for women to take advantage of a right to vote, no matter how clearly given them, which there was no actual intention to give. This objection does not touch the argument we have been making, but it may be well to say a word upon it. The law has so far dealt so unfairly with women that it would seem as if they should not be severely criticised for taking advantage of the law, when, though by mere accident, it happens to favor them. But it is especially to be considered that their claim is in accordance with the whole spirit of the Constitution and in harmony with all the fundamental principles of our Government, while the denial of suffrage to them is in opposition to those principles. If anything is settled in this country as an abstract general principle, it is the right of tax-payers to have a voice in the legislation that is to determine their taxes and in the appointment of the officers who are to levy and expend them, and that the members of the nation should elect its rulers. Our error (and the day is not far distant when we shall all see its absurdity) is in making these fundamental rights the rights of *men alone* and in denying them to *women*. The latter have equal intelligence, patriotism, and virtue, and their fidelity to their country has been as well proved as that of men, and it is difficult to see any good reason why they should have no voice in deciding who shall be the rulers of the nation, what its laws, what its taxes and how appropriated, what the policy that is to affect, for good or evil, the business interests that they are becoming more and more largely engaged in. With all

this *equity* in their favor, may they not be allowed, without censure, to avail themselves of a *legal right*? If the freedom of the slave could have been declared by our judicial tribunals under some guarantee of freedom in the National Constitution, originally intended only for white men, all lovers of freedom would have rejoiced. When Alvan Stewart, thirty years ago, attempted to get such a decision from the supreme court of New Jersey, there was not a cavil heard among the opponents of slavery. So when, in the face of the whole legal opinion of England, Granville Sharpe got a decision in favor of the slave Somerset, forever overthrowing slavery in England, by an application of latent principles of the English constitution, the whole world applauded, and does to this day. It was thus, as we understand it, that slavery was overthrown in Massachusetts, a lawyer claiming before its courts the application to a slave of a clause in its bill of rights supposed to have been intended only for white men. We would add that it would not accord at all with the good sense and directness of method that specially characterize the American people, for the friends of woman suffrage to labor years for the passage of a further constitutional amendment when they already have all that such an amendment could give.

Having attempted a strictly legal view of this question, permit me, gentlemen, to say that in my heart my claim to vote is based upon the original Constitution, interpreted by the Declaration of Independence. I believe that Constitution comprehensive enough to include all men and all women. I believe that black men needed no other charter than white men. I recognize the stress laid upon Congress, by reason of the infancy of that race, their past bondage, and the duty of protection toward them. But the great principles of liberty and responsibility contained in the Declaration and the Constitution should have afforded protection to every human being living under the flag, and properly applied, they would have been found sufficient. For my own part, I will never willingly consent to vote under any special enactment conferring rights of citizenship upon me as upon an alien. Like Paul, I was free-born. "With a great sum obtained I this freedom," said the Roman centurion to this old patriot apostle; but he replied, "*I am free-born.*" There is music in

those words to my ear. They are the deep vibrations of a soul that loves its country as itself.

You sit here, gentlemen, in judgment on my rights as an American citizen, as though they were something different from your own; *but they are not*. By whatsoever title you sit in these seats and make laws, wise or unwise, just or unjust, for this great people, by that same title do I claim my share in this great responsibility, owing allegiance to God and my own conscience alone. I may have been born with less capacity than the least among you, with small chance of growing to your mental stature, or reaching your standard of moral elevation; but I have a perfect right to sit in your midst, pigmy that I may be, since I am one of "*the people*" who did ordain this glorious old Constitution, and one of "*the governed*," whose consent is made the basis of a government that can be called just.

It is for this reason that I and my fellow memorialists have asked to be protected in the use of our present rights, rather than endowed with any new ones; and we do pray you, gentlemen of the committee, to give immediate attention to our claim, and to report to the Senate within a short time, favorably if you can, adversely if you must, because we not only wish, in common with thousands of other women-citizens, to vote for the next President, but to have a potent voice in his nomination, and we wish to know therefore, how far Congress will aid us, and how far we must work out our own salvation. For we can wait no longer. We feel that we have neglected our duty already, else what means this appalling official corruption that is bringing dismay to the stoutest hearts among men, and leading them to doubt the wisdom of republican institutions, the strength of the great doctrines of liberty and responsibility on which our Government is founded? We do not doubt these great doctrines, we *know* what they mean and whereto they tend. Our Ship of State carries two engines, gentlemen, and was built for them, but heretofore you have used only one, and now you have reached the place where not only two seas meet, but all ocean currents are struggling together for the mastery. The *man power* alone will not save you, but put on the *woman power*, and our gallant ship will steady itself for a moment, and then ride the waves triumphantly forevermore.

Gentlemen, we come to you with petitions no longer. Here is our declaration and pledge, issued a year ago this day, signed already by thousands of women, and eager names are coming every day:

“DECLARATION AND PLEDGE OF THE WOMEN OF THE UNITED STATES CONCERNING THEIR RIGHT TO, AND THEIR USE OF, THE ELECTIVE FRANCHISE.

“We, the undersigned, believing that the sacred rights and privileges of citizenship in this Republic were guaranteed to us by the original Constitution, and that these rights are confirmed and more clearly established by the fourteenth and fifteenth amendments, so that we can no longer refuse the solemn responsibilities thereof, do hereby pledge ourselves to accept the duties of the franchise in our several States so soon as all legal restrictions are removed.

“And believing that character is the best safeguard of national liberty, we pledge ourselves to make the personal purity and integrity of candidates for public office the *first* test of fitness.

“And lastly, believing in God as the Supreme author of the American Declaration of Independence, we pledge ourselves, in the spirit of that memorable act, to work hand-in-hand with our fathers, husbands, and sons, for the maintenance of those equal rights on which our Republic was originally founded, to the end that it may have, what is declared to be the first condition of just government, ‘*the consent of the governed.*’ And for the support of this declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor.”

We did hope to present this to Congress itself in the Senate Chamber to-day. We believe that women, being unrepresented in that body, are entitled to appear there by their memorialists in person, and we have so asked. But Congress has referred us to you, and you have declined even to submit our proposition officially to that body. You find no precedent for this, you say—forgetting, gentlemen, that history makes its own precedents. The men of America made theirs in 1776; the women of America are making theirs to-day, and may God prosper the right.

WASHINGTON, D. C., *January 12, 1872.*

ARGUMENT OF MRS. STANTON.

Gentlemen of the Judiciary Committee:

We appear before you at this time to call your attention to our memorial asking for a "declaratory act" that shall protect women in the exercise of the right of suffrage. Benjamin F. Butler, early in the session, presented a bill in the House to this effect that may soon, in the order of legislation, come before you for consideration in the Senate of the United States. As you well know, women are demanding their rights as citizens to-day under the original Constitution, believing that its letter and spirit, fairly interpreted, guarantee the blessings of liberty to every citizen under our flag. But more especially do we claim that our title deed to the elective franchise is clearly given in the fourteenth and fifteenth amendments. Therein for the first time the Constitution defines the term citizen, and, in harmony with our best lexicographers, declares a citizen to be a person possessed of the right to vote. In the last year the question of woman's political status has been raised from one of vague generalities to one of constitutional law.

The Woodhull memorial, and the able arguments sustaining it made by Mr. Riddle and Mrs. Woodhull herself, and the exhaustive minority report of Messrs. Butler and Loughridge, have been before the nation for one year, and yet remain unanswered; in fact, the opinions of many of our most learned judges and lawyers multiplying on all sides, sustain the positions taken in the "Woodhull Memorial." As our demands are based on the same principles of constitutional interpretation, I will not detain you with the re-statement of arguments already furnished, but will present a few facts and general principles showing the need of some speedy action on this whole question.

Gentlemen hold seats in Congress to-day by the votes of women. The legality of the election of Mr. Garfield of Washington Territory, and Mr. Jones of Wyoming, in-

volves the question whether or not their constituents are legal voters. Ultimately this question, involving the fundamental rights of citizens, must be considered in the Senate as well as the House. Women have voted in the general elections in several of the States, and if legislators chosen by women choose Senators, their right to their seats cannot be decided until it is first decided whether women are legal voters. Some speedy action on this question is inevitable, to preserve law and order.

In some States women have already voted; in others they are contesting their rights in the courts, and the decisions of judges differ as widely as the capacities of men to see first principles.

Judge Howe, Judge Cartter, and Judge Underwood have given their written opinions in favor of woman's citizenship under the fourteenth and fifteenth amendments. Even the majority report of the Judiciary Committee, presented by John A. Bingham, though adverse to the prayer of Victoria Woodhull, admits the citizenship of woman. In the late cases of Sarah Spencer against the Board of Registration, and Sarah E. Webster against the superintendent of election, the judge decided that under the fourteenth amendment women are citizens.

Now, we do not ask to vote outside of law, or in open violation of it, nor to avail ourselves of any strained interpretations of constitutional provisions, but in harmony with the Federal Constitution, the Declaration of Independence, and our American theory of just government.

The women of this country and a handful of foreign citizens in Rhode Island, the only disfranchised classes, ask you to-day to secure to them a republican form of government to protect them against the oppression of State authorities, who, in violation of your amendments, assume the right not merely to regulate the suffrage, but to abridge and deny it to these two classes of citizens.

The Federal Constitution, in its fourteenth amendment, clearly defines, for the first time, who are citizens :

“All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States, and of the States wherein they reside.”

No one denies that “all persons,” in the fourteenth

amendment, is used without limitation of sex, or in other words, that not men only, but women also are citizens. Whether in theory the citizenship of women is generally admitted or not, it certainly is in practice. Women preempt land; women register ships; women obtain passports; women pay the penalty of their own crimes; women pay taxes, sometimes work out the road tax.

In some States even married women can make contracts, sue and be sued, and do business in their own names; in fact, the old Blackstone idea that husband and wife are one, and that one, the husband, received its death blow twenty years ago, when the States of New York and Massachusetts passed their first laws securing to married women the property they inherited in their own right.

You may consider me presumptuous, gentlemen, but I claim to be a citizen of the United States with all the qualifications of a voter. I can read the Constitution, I am possessed of two hundred and fifty dollars, and the last time I looked in the old family Bible I found I was over twenty-one years of age.

"Individual rights," "Individual conscience and judgment," are great American ideas, underlying our whole political and religious life. We are here to-day to ask a Congress of Republicans for that crowning act that shall secure to 15,000,000 women the right to protect their persons, property, and opinions by law. The fourteenth amendment, having told us who are citizens of the republic, further declares that "no State shall make or enforce any law which shall abridge the 'privileges or immunities' of 'citizens' of the United States." Some say that "privileges and immunities" do not include the right of suffrage. We answer that any person under Government who has no voice in the laws or the rulers has his privileges and immunities abridged at every turn, and when a State denies the right of suffrage it robs the citizen of his citizenship and of all power to protect his person or property by law.

Disfranchised classes are ever helpless and degraded classes. One can readily judge of the political status of a citizen by the tone of the press. Go back a few years, and you find the Irishman the target for all the gibes and

jeers of the nation. You could scarce take up a paper without finding some joke about "Pat" and his last bull. But in the process of time "Pat" became a political power in the land, and editors and politicians could not afford to make fun of him.

Then "Sambo" took his turn. They ridiculed his thick skull, woolly head, shin-bone, long heel, &c., but he, too, has become a political power; he sits in the Congress of the United States and in the Legislature of Massachusetts, and now politicians and editors cannot afford to make fun of him.

Now, who is their target? Woman. They ridicule all alike—the strong minded for their principles, the weak minded for their panniers.

How long think you the New York Tribune would maintain its present scurrilous tone if the votes of women could make Horace Greeley Governor of New York? The editor of the Tribune knows the value of votes, and if honorable gentlemen, you will give us a "Declaratory law," forbidding the States to deny or abridge our rights, there will be no need of arguments to change the tone of his journal; its columns will speedily glow with demands for the protection of woman as well as broad-cloth and pig-iron. Then we might find out what he knows and cares for our real and relative value in the Government.

Without some act of Congress regulating suffrage for women as well as black men, women citizens of the United States who, in Washington, Utah, and Wyoming Territories, are voters and jurors, and who, in the State of Kansas, vote on school and license questions, would be denied the exercise of their right to vote in all the States of the Union, and no naturalization papers, education, property, residence, or age could help them. What an anomaly is this in a republic! A woman who in Wyoming enjoys all the rights, privileges, and immunities of a sovereign, by crossing the line into Nebraska, sinks at once to the political degradation of a slave. Humiliated with such injustice, one set of statesmen answer her appeals by sending her for redress to the courts; another advise her to submit her qualifications to the States; but we, with a clearer intuition of the rightful power, come to you who

thoughtfully, conscientiously, and understandingly passed that amendment defining the word "citizen," declaring suffrage a foundation right. How are women "citizens" from Utah, Wyoming, Kansas, moving into other States, to be protected in the rights they have heretofore enjoyed, unless Congress shall pass the bill presented by Mr. Butler, and thus give us a homogeneous law on suffrage from Maine to Louisiana?

Remember, these are citizens of the United States as well as of the Territories and States wherein they may reside, and their rights as such are of primal consideration. One of your own amendments to the Federal Constitution, honorable gentlemen, says "that the right of citizens of the United States to vote shall not be denied or abridged by any State on account of race, color, or previous condition of servitude." We have women of different races and colors, as well as men. It takes more than men to compose peoples and races, and no one denies that all women suffer the disabilities of a present or previous condition of servitude. Clearly the State may regulate, but cannot deny the exercise of this right to any citizen.

You did not leave the negroes to the tender mercies of the courts and States. Why send your mothers, wives, and daughters suppliants at the feet of the unwashed, unlettered, unthinking masses that carry our elections in the States? Would you compel the women of New York to sue the Tweeds, the Sweeneys, the Connollys, for their inalienable rights, or to have the scales of justice balanced for them in the unsteady hand of a Cardozo, a Barnard, or a McCunn? Nay, nay; the proper tribunal to decide nice questions of human rights and constitutional interpretations, the political status of every citizen under our national flag, is the Congress of the United States. This is your right and duty, clearly set forth in article 1, section 5, of the Constitution, for how can you decide the competency and qualifications of electors for members of either House without settling the fundamental question on what the right of suffrage is based? All power centers in the people. Our Federal Constitution, as well as that of every State, opens with the words, "We, the people." However this phrase may have been understood

and acted on in the past, women to-day are awake to the fact that they constitute one-half the American people; that they have the right to demand that the Constitution shall secure to them "justice," "domestic tranquility," and the "blessings of liberty." So long as women are not represented in the Government they are in a condition of tutelage, perpetual minority, slavery.

You smile at the idea of women being slaves in this country. Ben. Franklin said long ago, that they who have no voice in making the laws, or in the election of those who administer them, do not enjoy liberty, but are absolutely enslaved to those who have votes and to their representatives. I might occupy hours in quoting grand liberal sentiments from the fathers—Madison, Jefferson, Otis, and Adams—in favor of individual representation. I might quote equally noble words from the statesmen of our day—Seward, Sumner, Wade, Trumbull, Schurz, Thurman, Groesbeck, and Julian—to prove "that no just government can be formed without the consent of the governed;" that the ballot is the Columbiad of our political life, and every man who holds it is a full-armed Monitor. But what do lofty utterances and logical arguments avail so long as men, blinded by old prejudices and customs, fail to see their application to the women by their side? Alas! gentlemen, women are your subjects. Your own selfish interests are too closely interwoven for you to feel their degradation, and they are too dependent to reveal themselves to you in their nobler aspirations, their native dignity. Did Southern slaveholders ever understand the humiliations of slavery to a proud man like Frederick Douglass? Did the coarse, low-bred master ever doubt his capacity to govern the negro better than he could govern himself? Do cow-boys, hostlers, pot-house politicians ever doubt their capacity to prescribe woman's sphere better than she could herself? We have yet to learn that, with the wonderful progress in art, science, education, morals, religion, and government we have witnessed in the last century, woman has not been standing still, but has been gradually advancing to an equal place with the man by her side, and stands to-day his peer in the world of thought.

American womanhood has never worn iron shoes, burned on the funeral pile, or skulked behind a mask in a harem, yet, though cradled in liberty, with the same keen sense of justice and equality that man has, she is still bound by law in the swaddling bands of an old barbarism. Though the world has been steadily advancing in political science, and step by step recognizing the rights of new classes, yet we stand to-day talking of precedents, authorities, laws, and constitutions, as if each generation were not better able to judge of its wants than the one that preceded it. If we are to be governed in all things by the men of the eighteenth century, and the twentieth by the nineteenth, and so on, the world will be always governed by dead men. The exercise of political power by women is by no means a new idea. It has already been exercised in many countries, and under governments far less liberal in theory than our own. As to this being an innovation on the laws of nature, we may safely trust nature at all times to vindicate herself. In England, where the right to vote is based on property and not person, the *femme sole* freeholder has exercised her right all along. In her earliest history we find records of decisions in courts of her right to do so, and discussions on that point by able lawyers and judges. The *femme sole* voted in person; when married, her husband represented her property, and voted in her stead; and the moment the breath went out of his body, she assumed again the burden of disposing of her own income and the onerous duty of representing herself in the Government. Thus England is always consistent; property being the basis of suffrage, is always represented. Here suffrage is based on "persons," and yet one-half our people are wholly unrepresented.

We have declared in favor of a government of the people, for the people, by the people, the whole people. Why not begin the experiment? If suffrage is a natural right, we claim it in common with all citizens; if it is a political right, that the few in power may give or take away, then it is clearly the duty of the ruling powers to extend it in all cases as the best interests of the State require. No thinking man would admit that educated, refined womanhood would not constitute a most desirable element

and better represent the whole humanitarian idea than a government of men alone.

The objections to Mr. Butler's bill, extending the provisions of the enforcement act to women, all summed up, are these: 1st. This is too short a cut to liberty. It is taking the nation by storm. The people are not ready for it. The slower process of a sixteenth amendment would be safer, surer, and do more toward educating the people for the final result. To all of which I answer, the women at least are ready and as well prepared for enfranchisement as were the slaves of the Southern plantation. There could have been no plan devised to educate the people so rapidly as the startling announcement in the Woodhull memorial that women already had the right to vote. It has roused wise men to thought on the question, stirred the bar and bench of the nation, with the prospect of a new and fruitful source of litigation, it has inspired woman with fresh hope that the day of her enfranchisement is at hand, given the press of the country solid arguments for their consideration, and changed the tone of the speeches in our conventions from whinings about brutal husbands, stolen babies, and special laws, to fundamental principles of human rights.

This question has been up for discussion in this country over thirty years; it split the first anti-slavery society in two, was a firebrand in the world's convention, and has been a disturbing element in temperance, educational, and constitutional conventions ever since, and it is high time it took a short cut to its final consummation. There have been many shorter cuts to liberty than this is likely to be, even with a declaratory act at this session. Why multiply amendments when we have liberty and justice enough in the spirit and letter of the Constitution as it now is to protect every citizen under this Government?

The simple opinion of a chief justice, a century ago, without any change in legislation, settled in one hour as great a question of human rights as we now submit to your consideration. Lord Mansfield, presiding in the Court of Queen's bench, listening to the arguments in the famous Somerset case, with higher light and knowledge, suddenly awoke to the truth that by the laws of England, a slave could not breathe on that soil, and he so decided, and the

negro was discharged. Slavery was abolished in Massachusetts in the same way, without any amendment of her constitution or new legislation, simply by the decision of her chief justice. So you perceive, honorable gentlemen, we have two precedents for the "short cut" we propose to liberty.

Second. Some object that it was not the "intention" of the framers of the original Constitution, nor of the amendments, to enfranchise woman.

When ordinary men, in their ordinary condition, talk of the "intentions" of great men specially inspired to utter great political truths, they talk of what they cannot know or understand.

When by some moral revolution men are cut loose from all their old moorings, and get beyond the public sentiment that once bound them, with no immediate selfish interest to subserve—as, for instance, our fathers in leaving England, or the French Communes in the late war—in hardship and suffering they dig down to the hardpan of universal principles, and in their highest inspirational moments proclaim justice, liberty, equality for all.

Visiting Chicago not long since, I saw great pieces of rock of the most wonderful mineral combination—gold, silver, glass, iron, layer after layer, all welded beautifully together, and that done in the conflagration of a single night which would have taken ages of growth to accomplish in the ordinary rocky formations. Just so revolutions in the moral world suddenly mould ideas, clear, strong, grand, that centuries might have slumbered over in silence; ideas that strike minds ready for them with the quickness and vividness of the lightning's flash. It is in such ways and under such conditions that constitutions and great principles of jurisprudence are written; the letter and spirit are ever on the side of liberty; and highly organized minds, governed by principle, invariably give true interpretations; while others, whose law is expediency, coarse and material in all their conceptions, will interpret law, Bible, constitution, everything, in harmony with the public sentiment of their class and condition. And here is the reason why men differ in their interpretations of law. They differ in their organizations; they

see everything from a different standpoint. Could ideas of justice, and liberty, and equality be more grandly and beautifully expressed than in the preamble to our Federal Constitution?

It is an insult to those Revolutionary heroes to say that, after seven years' struggle with the despotic ideas of the old world, in the first hour of victory, with their souls all on fire with new-found freedom, they sat down like so many pettifogging lawyers and drew up a little instrument for the express purpose of robbing women and negroes of their inalienable rights. Does the preamble look like it? Women did vote in America at the time the Constitution was adopted. If the framers of the Constitution meant they should not, why did they not distinctly say so? The women of the country, having at last roused up to their rights and duties as citizens, have a word to say as to the "intentions" of the fathers. It is not safe to leave the "intentions" of the Pilgrim fathers, or the Heavenly Father, wholly to masculine interpretation, for by Bible and Constitution alike, women have thus far been declared the subjects, the slaves of men.

But able jurists tell us that the "intention" of the framers of a document must be judged by the letter of the law. Following this rule, the Supreme Court of the District of Columbia has decided that the fourteenth amendment does affect the status of women; that it advances them to full citizenship, and clothes them with the capacity to become voters.

The exact language of Judge Cartter, who spoke for the court, is as follows:

"All that has been accomplished by this amendment to the Constitution, or its previous provisions, is to distinguish them (women) from aliens, and make them capable of becoming voters. In giving expression to my judgment, this clause *does advance* them to full citizenship, and clothes them with the capacity to become voters."

If so much has been done, we have already gone beyond the "intention" of the framers of the amendments, if as some say they did not intend to touch the status of woman at all. But with or without intent, a law stands as it is written—"Lex ita scripta est."

The true rule of interpretation, says Charles Sumner, under the National Constitution, especially since its additional amendments, is that anything for human rights is constitutional. "No learning in the books, no skill in the courts, no sharpness of forensic dialectics, no cunning in splitting hairs, can impair the vigor of the constitutional principle which I announce. Whatever you enact for human rights is constitutional, and this is the supreme law of the land, anything in the constitution or laws of any State to the contrary notwithstanding."

ARGUMENT OF SUSAN B. ANTHONY.

Gentlemen of the Judiciary Committee :

It is not argument nor Constitution that you need; you have already had these. I shall therefore refer to existing facts. Prior to the war the plan of extending suffrage was by State action, and it was our pride and our boast that the Federal Constitution had not a word or a line that could be construed into a barrier against woman so soon as we could remove the State barriers; but at the close of the war Congress lifted the question of suffrage for men above State power, and by its amendments prohibited the deprivation of suffrage to any man by any State. When the fourteenth amendment was first enacted in Congress we rushed to you with petitions, praying you not to insert the word "male" in the second clause. Our best women-suffrage men, on the floor of Congress and in the country, said to us the insertion of the word there puts up no barrier against women; therefore do not embarrass us, but wait until the negro question is settled. The fourteenth amendment with the word "male" was adopted. Then when the fifteenth amendment came up without the word "sex," we again protested, and again our friends declared to us that the absence of that word was no hindrance to us, and again begged us to wait until they had finished the work of the war. "After we have freed the negro, and given him a vote," said they, "we will take up your case." But have they done as they promised? No, they have refused us our rights, although they have given the negro his, and now, when we come before you, asking protection under the guarantees of the Constitution, the same men say to us our only plan is to wait the action of Congress and State Legislatures in the adoption of a sixteenth amendment that shall make null and void the insertion of the word

“male” in the fourteenth amendment, and supply the want of the word “sex” in the fifteenth amendment.

Such tantalization endured by yourselves, or by any class of men, would have wrought rebellion, and in the end a bloody revolution. It is only the friendly relations that subsist between the sexes, the affection that women bear to men, that has prevented any such result here. Gentlemen, I should be sure of what your decision would be, if you could only realize the fact that we, who have been battling for our rights, now more than twenty years, have felt, and now feel, precisely as you would under the same circumstances. Men never do realize this. One of the most ardent lovers of freedom, and firmest defenders of it, said to me, two winters ago, after our hearing before the committee of the District, “Miss Anthony, I never knew, at least, I never realized before, in my life, that you feel disfranchisement just as I should myself, the disgrace of it, the humiliation of soul.”

We have petitioned for our rights year after year. Although I am a Quaker and take no oath, yet I have made a most solemn affirmation that I would never beg for my rights again, but that I would come up before you each year, and *demand* the recognition of those rights.

What we ask of the Republican party is, simply to take down its own bars. The facts in Wyoming show how a Republican party can exist in that Territory. Before women voted, there was never a Republican elected to office in that Territory. After women voted, the first election sent a Republican to Congress, and three Republicans to the House and four to the Council. Thus the nucleus of a Republican party was formed by the votes of women. The Democrats seeing this, are determined to disfranchise women. Can you Republicans, so utterly stultify yourselves, can you so entirely work against yourselves as to refuse us a declaration of our rights? Can you deny us the protection we ask?

We pray you to report immediately, as Mrs. Hooker has said, “favorably, if you can, adversely, if you must.” We can wait no longer.